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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,204	08/20/2001	Sylvain Nadeau	2001 P 15260 US	6467

7590 07/10/2003

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

TAMAI, KARL I

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/933,204	NADEAU, SYLVAIN	
Examiner	Art Unit	
Tamai IE Karl	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The amended title "ENGINE COOLING MODULE WITH DUAL VIBRATION ISOLATING STRUCTURE" has been entered into the file wrapper. The requirement of a new title is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt et al. (Wendt)(US 4,103,192) and Barnes et al. (Barnes)(US 5,626,202). Wendt teaches a fan motor with the brackets having two resilient mounts: a plurality of first resilient mount 66 between the motor 26 and the bracket 32 and a plurality of second resilient mount 66 between the bracket 32 and the fasteners 58 bracket mounting structure 22. Wendt teaches every aspect of the invention except the engine and the brackets being a shroud. Wendt teaches the supporting arms 50 of the brackets in the grommets 66 positioned in the heat ring of the motor housing. Barnes teaches the mounting bracket for the fan includes a shroud 10. It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the motor of Wendt with the shroud of Barnes to reduce vibrations of the motor and the shroud, as taught by Barnes.

Response to Arguments

4. Applicant's arguments filed 4/30/03 have been fully considered but they are not persuasive. The Applicant's argument that a residential air conditioner is non-analogous art to vehicle air conditioners is not persuasive. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Wendt and Barnes are both in the field of supports for motors, furthermore ample motivation is present because they are both directed to reducing vibrations in the motor and support.

The Applicant's argument that the combination of Wendt and Barnes do not teach the claimed invention is not persuasive. The examiner disagrees with the Applicant because Wendt teaches everything except the support arms being a shroud. Barnes teaches that motor vehicles resiliently mount motors and shrouds to reduce vibration and noise (chatter) of the combination, where the shroud is inherently directing the air flow around the fan and radiator to provide cooling circulation.

The Applicant's argument that there is no specific teaching of how the shroud of Barnes will be incorporated in Wendt is not persuasive because the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

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See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In the instant case the combine teaching of Wendt and Barnes is the use of a motor mounted by two resilient members on opposite sides of the support bracket reduces vibration and noise, whether the supporting member is an arm or shroud is a choice for the ordinary skill in the art depending on how much control of air flow is desired. Regardless of whether it is a shroud or support arms, vibration/noise is decreased. The Applicant's arguments regarding the flexible arms in Wendt (Col. 4, lines 1-2) is not persuasive because the examiner did not find the recitation in the Wendt patent. The combined teaching of Wendt and Barnes clearly shows that the bracket supporting the motor on the support can be arms or a shroud.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl I.E. Tamai whose telephone number is (703) 305-7066.

The examiner can be normally contacted on Monday through Friday from 8:00 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Nestor Ramirez, can be reached at (703) 308-1371. The facsimile number for the Group is (703) 305-3432.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Karl I Tamai
PRIMARY PATENT EXAMINER
July 7, 2003



**KARL TAMAI
PRIMARY EXAMINER**